



The following document is the Des Moines Public School District's report on its investigation into alleged improper behavior by Lincoln High School football coach Tom Mihalovich.

It is a public record laced with profanity and language that some readers may find offensive.

But the Des Moines Register is publishing this document because the profanity and offensive language are at the heart of many of the allegations a former Lincoln student made against Mihalovich. Indeed, the school district's findings in this investigation are that:

- The allegation of corporal punishment against Mihalovich is founded.
- The allegation of violating the district's bullying and harassment policy is founded.
- Allegations of conduct unbecoming a staff member, directing abusive language at students, engaging in intimidation and retaliation are founded.
- And allegations of insubordination for violating directives while on paid administrative leave are founded.

This document has some names blacked out. Those redactions were made before the Register obtained the document. It appears those redactions all hide the names of current or former Lincoln students.

As you read the document, keep in mind that when it refers to "Complainant," it means Dante Campero, the former Lincoln student whose family complained about the coaching staff's actions after he was punished at a practice.

When this document refers to "Respondent," it means Tom Mihalovich, who has been the head football coach at Lincoln for 12 years.

**DES MOINES PUBLIC SCHOOLS  
INVESTIGATIONS OFFICE  
HUMAN RESOURCES MANAGEMENT**

**Personnel Investigation of an Alleged Violation of Anti-Bullying and Anti-Harassment  
Policy, Corporal Punishment and Allegations of Conduct Unbecoming**

Investigation Conducted By: Amanda Easton, District Investigator  
& Steve Garrison, Personnel Investigator

**Date of Findings: October 1, 2012**

**POLICY**

**Series 500, Code 520, Title: School Discipline, IV: Restraint and Physical Force**

Intentional physical punishment of a student is specifically prohibited.

An employee of the Des Moines Independent Community School District shall not inflict, or cause to be inflicted, corporal punishment upon a student. "Corporal punishment" is the intentional physical punishment of a student. "Corporal punishment" includes the use of unreasonable and unnecessary physical force, or physical contact made with the intent to harm or cause pain.

*Definition:* Corporal punishment refers to intentional application of physical pain as a method of changing behavior. It includes a wide variety of methods such as hitting, slapping, spanking, punching, kicking, pinching, shaking, shoving, choking, use of various object (wooden paddles, belts, sticks, pins, or others), painful body postures (as placing in a closed spaces), use of electric shock, use of excessive exercise drills, or prevention of urine or stool elimination.

**Series 500 Code 524 Title: Anti-Bullying and Anti-Harassment Nondiscrimination**

No student in the Des Moines Independent Community School District shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in the District programs on the basis of race, color, creed, sex, religion, marital status, ethnic background, national origin, disability, sexual orientation, gender identity, or socio-economic background. The policy of the District shall be to provide educational programs and opportunities for students as needed on the basis of individual needs, interests, abilities, and potential.

**Harassment and Bullying Prohibited.** Harassment and bullying of students is against federal and state law, and against the policy of the District. The District is committed to maintaining an educational environment free of any form of bullying or harassment by or toward students, parents/guardians, employees, and volunteers while in school, at a school sponsored activity or at any school sponsored function. The District prohibits harassment or bullying based on the students actual or perceived trait or characteristic, including but not limited to the student's actual or perceived race, color, creed, sex, age, religion, marital or familial status, ethnic background, national origin, ancestry, physical or mental ability or disability, sexual orientation, gender identity, physical attribute, political party preference, political belief, or socio-economic background or familial status. Acts of harassment or bullying may be treated as grounds for discipline. Discipline may include suspension or expulsion of a student, termination of an employee, and exclusion of a volunteer from District activities or school premises.

**Harassment and Bullying Defined.** Any communication toward a student including electronic (such as emails or instant messages), telephonic, written or verbal communication, or any physical act or conduct that is based on an actual or perceived trait or characteristic that creates or could reasonably be expected to create an objectively hostile school environment is prohibited. An objectively hostile school environment is created if the act or conduct:

- places the student in reasonable fear of harm to the student's person or property; or
- has a substantially detrimental effect on the student's physical or mental health; or
- has the effect of substantially interfering with the student's academic performance; or
- has the effect of substantially interfering with the student's ability to participate in or benefit from the District services, activities, or privileges.

Examples of prohibited behavior may include but are not limited to the following:

- unwelcome touching;
- inappropriate or demeaning remarks, jokes, stories, activities, symbols, signs or posters;
- implied or explicit threats concerning grades, awards, property or opportunities;
- requiring explicitly or implicitly that a student submit to harassment or bullying as a term or condition of the student's participation in any educational program or activity.

**ALLEGATION #1 CAMP ERO COMPLAINT OF COPORAL PUNISHMENT AND  
BULLYING/HARASSMENT ON SEPTEMBER 3, 2012**

Both Jeff Hummel, Vice Principal at RAILS Academy at Lincoln High School, and Paul Williamson, Principal at Lincoln High School, reported that on September 4, 2012, they received calls from Mary Walker, mother of former Lincoln High School sophomore [REDACTED]. Walker alleged her son was hazed and bullied by Tom Mihalovich, Head Coach of Lincoln High School football, hereinafter referred to as "Respondent," on September 3, 2012 at football practice. Both administrators reported Walker acknowledged her son posted a disparaging comment about the varsity football team on Twitter on August 31, 2012. Walker reported her son removed the "tweet" and then posted an apology to varsity players on Twitter. Walker reported that [REDACTED], hereinafter referred to as "Complainant," was subjected to the following behaviors as a punishment for the posting:

- Complainant was forced to stand in front of the varsity team and recite the offensive "tweet";
- During the time that Complainant addressed the varsity team, Respondent permitted varsity team members to direct threatening statements and derogatory remarks toward Complainant without Respondent, or any other coach, intervening to stop this behavior;
- As an additional punishment, Complainant was forced to run for two hours without a water break;
- While running, Respondent mocked and taunted Complainant with questions like, "Why don't you go to Dowling?";
- Coaching staff continued to add drills to Complainant's punishment with the intent of making him quit the football team;
- Coaching staff required that Complainant continue to run even after he reported to coaching staff he felt sick; and
- When Complainant reported he could run no more, Assistant Coach, Kevin Johnston, kicked him off the football team.

Walker reported to both Paul Williamson and Jeff Hummel that because of these behaviors, she disenrolled her son from Lincoln High School and enrolled him in Dowling Catholic High School on Tuesday, September 4, 2012.

Complainant, provided a formal complaint to this Investigator on September 11, 2012. In addition to the allegations made by Mary Walker, Complainant added that when he addressed the varsity football team, Respondent directed profane, abusive language at him saying, "Fucking tell them what you tweeted." Complainant added that while running during his punishment, Respondent yelled out to Complainant "Go

back to Dowling!” and “Your thumbs weren’t tired when you sent that tweet.” Complainant also reported that the threatening remarks allegedly made by varsity players, such as “Let him practice with us,” frightened him to the extent that he left practice fully dressed in his practice equipment in order to avoid changing with the varsity team in the locker room. Finally, Complainant reported his parents disenrolled him from Lincoln High School because he feared violence from varsity football team members.

Contradicting Walker’s initial complaint, Complainant reported he believed he ran as a punishment for approximately one hour, instead of two.

Walker and Complainant alleged Respondent’s behaviors on Monday, September 3<sup>rd</sup>, 2012, required that Complainant, explicitly or implicitly, submit to harassment or bullying as a term or condition of Complainant’s continued participation in a District activity, the Lincoln High School football program. Additionally, Walker and Complainant alleged Respondent authorized a member of his coaching staff to subject Complainant to excessive exercise drills as a form of corporal punishment for perceived misconduct.

### **SUMMARY OF INVESTIGATIVE FACTS**

The Investigators have considered all relevant statements, documentation, and video footage submitted throughout the course of the investigation. The following is an account of the events that occurred on September 3, 2012, as substantiated by the preponderance of the evidence:

██████████, former sophomore at Lincoln High School, posted a message on Friday, August 31, 2012 on a social media site named Twitter. Postings are referred to as “tweets.” The tweet read, “The reason I don’t go to the Varsity games at Lincoln is because they get fucking destroyed when they play half-decent teams.” According to all coaching staff, the tweet was discussed on Saturday, September 1, 2012 at a coaches meeting.

Respondent claimed he was informed of the tweet by a random student he could not identify by name or phone number. Respondent claimed the random student called him at his home on Saturday morning to report the tweet and made the comment, “He’s in our locker room” referring to the Complainant. Respondent reported he believed these statements were made by a student athlete because the individual who allegedly contacted him referred to Respondent as “Coach” during the phone call. Respondent alleges he experienced concern regarding players taking the situation into their own hands and retaliating against Complainant for the disparaging tweet. Respondent reported it is for these reasons that he alerted

the other coaching staff members about the tweet on Saturday, September 1<sup>st</sup>, and ultimately decided it would be proactive and in the players and Complainant's best interest to have Complainant address the team on Monday, September 3, 2012 during practice and apologize. Respondent claimed no physical punishment was discussed at all on Saturday, September 1<sup>st</sup>, 2012.

Coach Kevin Johnston, a second accused staff member [REDACTED], corroborated Respondent's statements. Johnston reported Respondent received word of the tweet from someone and discussed the situation with coaching staff members on Saturday, September 1<sup>st</sup>. Johnston reported he then pulled up the tweet on his cell phone and read it aloud to the coaching staff.

Coach Larry Gamblin, a third accused staff member [REDACTED], corroborated Respondent's statements. Gamblin reported the coaching staff decided to have Complainant address the team because other players had found out about the tweet and the coaching staff feared players would take matters into their own hands. However, when asked which players found out about the tweet, Gamblin, like Respondent, could not identify any players. Gamblin reported he believed Coach Tom Alessio and Coach Joe Bianchi received reports from concerned players regarding the tweet.

However, Ross Flowers, Assistant Varsity Football Coach at Lincoln High School, reported Assistant Coach Kevin Johnston has a brother who follows Complainant on Twitter. Flowers alleged Johnston's brother took a screen shot of the tweet and sent it to Johnston in a text. Johnston then came in and shared that information with the rest of the staff. Both Coach Alessio and Coach Bianchi deny they ever heard concerns regarding the tweet expressed by other players prior to the alleged incidents on Monday, September 3, 2012. Only the accused coaches have provided any statements to suggest the decision to have the Complainant address the varsity football team and recite his tweet was intended to quell a disturbance among student athletes that was already in progress. In fact, statements reportedly made by the Respondent during the time that Complainant addressed the team appear to have the intent of inciting the varsity players. Therefore, Respondent's claims, that a concern for the Complainant's well-being and a fear of retaliation prompted the decision to have the Complainant recite the tweet in front of the team, are not credible.

Following this discussion, witnesses agree Coach Joe Bianchi called the Complainant to question him about the tweet. During the call, Complainant admitted to Bianchi that he posted the tweet and apologized for this decision. Coach Bianchi informed Complainant that he would have some type of punishment during practice on Monday, September 3, 2012.

Flowers reported that all coaches present on Saturday talked and decided Complainant would address the varsity team, so that he could let them know exactly what he posted, and that after practice, Complainant would have “extra conditioning.” Flowers reported, “extra conditioning” is the coaches’ standard form of punishment. Bianchi, Alessio, and sophomore head coach, Matt Lakis, all acknowledged that running was discussed on Saturday morning as a punishment for the Complainant’s decision to post the disparaging tweet, though all reported the amount of running and exercise, and the length of time that physical activity would last, was not decided. Therefore, Respondent’s claim that, prior to September 3, 2012, he had no knowledge Complainant would be required to run as punishment is also not credible.

On Monday, September 3, 2012, Complainant reported to sophomore practice, which, according to all parties, began at 9:00am. Respondent alleges he had not thought of the tweet all weekend and only remembered it when he noticed Complainant in the locker room changing. Respondent reported he then brought all the coaches together and asked their opinion on having Complainant address the varsity team, admit what he posted and apologize. Respondent reported coaches Bianchi, Flowers, Johnston and Gamblin all agreed it was a good idea. Flowers, Lakis and Bianchi reported that the punishments of addressing the varsity team and extra running had already been discussed with Respondent on Saturday, September 1<sup>st</sup>. Therefore, Respondent’s account of this conversation is not credible.

Respondent reported Complainant walked over to the varsity practice after varsity warm-ups. He reported he met Complainant halfway and explained to Complainant that he wanted him to “man-up” and admit what he tweeted and then apologize to the team. However, Complainant reported that Coach Kevin Johnston told him to go over to the varsity practice and wait until they finished warming up. He did not report any interaction with Respondent prior to addressing the team. Additionally, Flowers reported that Johnston brought Complainant over to the varsity team. Varsity player [REDACTED] reported Johnston brought Complainant over to the varsity practice. None of those interviewed reported Respondent met Complainant halfway.

Respondent reported he stood approximately ten feet behind Complainant when he started speaking to the varsity team, and when Complainant became “quiet” due to nervousness, Respondent supported the Complainant and “helped” him tell the varsity team members what he tweeted. However, Complainant reported Respondent told him to “Fucking tell them what you tweeted.” Respondent denies directing profanity at Complainant during this interaction and claims he asked Complainant to address the team as a teachable moment and was there to support the Complainant in this endeavor. Four varsity players reported that Respondent’s interaction with Complainant was hostile during the time he asked Complainant to address the varsity team. [REDACTED] varsity football player, reported Respondent

said, "This is bullshit." [REDACTED] varsity football player reported Respondent said, "This is what he said about you guys and he's your brother." Additionally, during the building-level inquiry of this complaint, [REDACTED] admitted he reported to Principal Williamson that, while Respondent was telling the team about what Complainant posted, he "dropped several f-bombs." Furthermore, Alessio reported during the building-level inquiry that Respondent was using "colorful language" when telling Complainant to address the team.

By all accounts, Complainant recited a version of the tweet to the varsity team that did not contain profanity. Complainant's explanation of the tweet did not report the tweet verbatim. Respondent admits he then recited the tweet verbatim. Flowers reported Respondent had the tweet memorized, in its entirety. After reciting the tweet, all but one witness-reported the varsity team members yelled out comments to Complainant for thirty seconds to one minute. Reported comments include:

- "Let him practice with us"
- "Why do you think you're so good?"
- "Go back to Dowling"
- "Go to a different school."
- "Put him in the drill so we can hit him."
- "Make him take off the Rails shirt."
- "Let him do grinders with us."
- "Let him practice with us today coach."
- "That's messed up."
- "I can't believe you."

Respondent reported that, as varsity team members became louder and more excited during this exchange, he then told them, "Enough" and sent Complainant back to practice. Some witnesses corroborated Respondent's account that after approximately 30 second to one minute of the varsity team directing threatening and insulting comments to the Complainant, he stopped them by saying "Enough." Some witnesses reported that no coaches intervened to stop the comments. However, in line with the statements cited above regarding the tone of the interaction, [REDACTED], varsity football player, reported Respondent ended the interaction by telling Complainant, "Get out of my face!" [REDACTED], varsity football player, reported Respondent told Complainant, "Get out of my face. I don't want to see you anymore." Respondent denies telling Complainant to "get out of his face." Respondent's denials are not credible.

Respondent reported varsity team members asked if Complainant could be put into practice with them, but he explained to the players that the situation was "done." This statement is supported by more than one witness.



Respondent reported the varsity team began to practice and then he was approached by Gamblin who allegedly said to Respondent, "I just realized that [REDACTED] didn't apologize and so I'm going to have him run hills with [REDACTED]" It is Respondent's argument that, prior to Complainant "forgetting" to apologize during the time he addressed the varsity team, Respondent had no intention of having Complainant run as an additional punishment. Respondent claimed the running as a punishment was Gamblin's idea following Complainant addressing the varsity team. Respondent reported Gamblin was upset that Complainant had not apologized to the varsity team. Respondent claimed Gamblin requested permission to assign Complainant the punishment of running and Respondent approved it. Gamblin reported he didn't care about the apology. Furthermore, Bianchi, Alessio, Flowers, and Lakis reported extra running as a punishment had already been discussed on Saturday. All witnesses agree Gamblin assigned and supervised Complainant running drills.

Mary Walker, Complainant's mother, reported to Williamson and Hummel that Complainant ran for two hours as a punishment for his tweet and was subsequently kicked off the football team. Complainant reported he ran for approximately one hour. During this investigation, Walker revised her position and reported she believed Complainant's punishment lasted from 45 minutes to one hour. Respondent, Gamblin, and Johnston reported Complainant ran for fifteen to twenty minutes. All witnesses agree Complainant started his punishment shortly after sophomore practice ended. Lakis reported it takes the team approximately two minutes to walk from the field to the locker room. Video footage demonstrates sophomore players arrived at the locker room following their practice at 12:05pm. Video footage shows that at 12:37pm Complainant arrived at the locker room after completion of his punishment. Based on video footage alone, Complainant's punishment could not have been longer than 32 minutes. Both Walker and Complainant's claims of physical activity as punishment that lasted from one hour to two hours are not credible.

Gamblin reported he assigned to Complainant the same "conditioning" drills he had assigned regularly to [REDACTED], varsity football player. Gamblin reported he assigned both Complainant and [REDACTED] a lap around the shot-put field, followed by a break that was approximately "four plays" or four minutes. Gamblin reported he then assigned ten hill sprints, followed by a break that was approximately four minutes. The hill sprints were completed on a hill next to the practice field that is approximately 63 feet from top to bottom, at an incline of approximately 15-20 feet. Gamblin reported he then assigned an undetermined number of "up-downs," which is a drill where the player runs in place, jumps to ground, lays with their belly flat on the ground, then jumps up and puts their hands in the air. Gamblin reported, "It couldn't have been that many because [REDACTED] struggles with them." Gamblin reported that because [REDACTED] was struggling with this drill, he permitted Complainant and [REDACTED] a longer break, a

break of approximately "six to seven plays." Gamblin reported that, after the break, he believes he assigned 15 more hill sprints. Gamblin reported that while completing hills, the varsity team took a water break and he allowed Complainant and Drayton to take a short water break at that time, and told them to return quickly and complete their hill sprints. Gamblin reported that he told Complainant the fifteen hill sprints were the last drill he would be required to complete as his punishment. Gamblin reported that, following the water break, Complainant stopped exercising and was approached by Coach Kevin Johnston.

Complainant's description of the physical activity he was required to do as punishment differs significantly from what Gamblin claimed he assigned. Complainant reported that, following a two and a half hour sophomore practice, he was assigned as punishment, exercise drills, one after the other, without any indication as to when the punishment would end. Complainant reported he was told by Gamblin to run twenty hill sprints. After completing those, he was allowed a four-play break. Complainant reported he was then told by Gamblin to do twenty up-downs. Complainant acknowledged that between each drill, he was permitted a break that was a minimum of four-plays in length. Complainant reported, he was then told to run two laps around the practice football field, to run to the backstop and back, and then to run twenty more hill sprints. He reported he completed ten of the last twenty hill sprints and then he could do no more.

Witnesses agree Complainant completed at least twenty hill sprints, twenty up-downs, two laps around the practice field and an undetermined number of hill sprints before walking off the field. There is discrepancy among witnesses regarding the number of hill sprints Complainant was assigned in the last drill prior to walking off the field. However when initially questioned, [REDACTED]'s description of what activities were assigned to the Complainant matched the Complainant's description very closely. Since the investigation and all of the events that have occurred, including a student athlete rally protesting the Respondent's paid administrative leave, [REDACTED] changed his statement to indicate Complainant was assigned less hill sprints during the last drill--ten hill sprints prior to walking off the field, as opposed to the twenty hill sprints he initially reported. Nearly every witness present to observe Complainant's punishment and to hear the instructions provided by Gamblin to the Complainant agree with Complainant's statements [REDACTED] regarding the number and types of drills he completed.

Complainant reported [REDACTED] did not complete anywhere near the number of drills he completed on September 3, 2012.

[REDACTED] agreed with Complainant's assessment. [REDACTED], varsity football player, was assigned extra conditioning and ran with Complainant. All witnesses except Johnston reported [REDACTED] was

unable to keep up with Complainant. Johnston reported that [REDACTED], who is an overweight player who does extra conditioning to get in shape, actually ran faster than the Complainant throughout the "conditioning." [REDACTED] himself reported he was unable to complete the conditioning Complainant was assigned and that Complainant was much faster. [REDACTED] confirmed Complainant completed all of the drills he was assigned except for the last twenty hills of which he completed ten. [REDACTED] also reported Complainant continued to run after [REDACTED] had stopped. Gamblin reported [REDACTED] completed the exact same drills the Complainant completed. Gamblin first reported he was monitoring the Complainant's progress, and then contradicted himself and said he was not monitoring the activities and had the students working on an "honor" system. By all accounts, Gamblin assigned varsity captain the task of counting the Complainant's progress. [REDACTED] reported Complainant completed twenty hill sprints, twenty up-downs, two laps around the practice field, and then five additional hill sprints before exiting the field. Therefore, Gamblin's statements are not credible.

All parties agree that during the second set of hill sprints, Complainant stopped and was approached by Coach Kevin Johnston. All parties agree that when Complainant stopped running, Johnston approached and told him to continue. Gamblin reported Johnston told Complainant, "This is your conditioning. Finish or turn in your pads." Complainant reported Johnston said, "Turn your shit in tomorrow" after Complainant told Johnston he could not finish the drills. Johnston denied telling Complainant to turn his "shit in" and reported he has never directed profane language at a student athlete. That statement is refuted by all student witnesses and most coaching staff members. All student witnesses reported Johnston uses profane language at practices. Johnston admitted he made the statement, "Finish the punishment or get off the field and turn your stuff in tomorrow." Furthermore Johnston admitted he had a conversation with Flowers telling him, "If [Complainant] is off the team, we need to get in touch with him tomorrow because he still has all of his equipment on."

When asked during his interview what drills Complainant completed for his punishment, Johnston reported, "The only thing I saw him do was run hills." When asked if he was aware that Complainant had done significantly more than just run hills, Johnston reported, "no." He then offered, "I don't think it's possible he ran it in 30 minutes. With the pace that he set and the breaks he was taking, there's no way he ran that much." Present to observe the Complainant completing his punishment were Amanda Brakke, Athletic Trainer at Lincoln High School; [REDACTED], varsity football player; and [REDACTED], varsity football player. Complainant acknowledged he received breaks in between drills and took breaks as needed. Complainant acknowledged it would have taken him between two and four minutes to walk from the practice field to the locker room. All things considered, breaks included, it is a fair assessment that Complainant's punishment lasted between 25 minutes and 30 minutes. In that period of time, all

witnesses agree Complainant completed 20 hill sprints, 20 up-downs, two laps around the practice field, and at least five more hill sprints.

The National Association for Sport and Physical Education released a position statement on physical activity used as a punishment in 2009. It reads, “Administering or withholding physical activity as a form of punishment and/or behavior management is an inappropriate practice.” According to Chapter 103 of the Iowa Code, corporal punishment includes an unreasonable request or requirement of a student engaged in activities associated with physical education or extra-curricular athletics. When questioned regarding the number of repetitions and drills Complainant claimed he completed during his punishment on September 3, 2012, Johnston—the individual responsible for issuing the Complainant the ultimatum to finish the drills or quit the team—reported it was “not possible” that Complainant completed the number of drills reported by the Complainant and witnessed by Brakke, [REDACTED] and [REDACTED]. By Johnston’s own admission, the requirement of Complainant to continue to exercise, beyond what he had already completed at the point of reported exhaustion, or be removed from the team was unreasonable.

An average runner can complete a mile in ten minutes. In addition to completing a two and half hour practice, as a punishment for sending a disparaging tweet, Complainant was required to engage in physical activity that would be the equivalent of running two and half to three miles. All coaches reported that, to their knowledge, never before had a player received a punishment of this magnitude for any infraction. Examples of more severe player infractions that received less physical punishment included, but are not limited to, a player assaulting and harassing a fellow player, a player assaulting an adult female by kicking her in the face, and a student athlete being arrested for possession of alcohol. By all accounts, Complainant’s punishment was more severe than any other punishment that any coach reported. Coaches reported the average physical punishment for players was completing 10-15 hill sprints. Complainant reported he completed all of the assigned drills except the last twenty hills, of which he completed ten, and was unable to finish due to exhaustion. Physical activity to the point of exhaustion as a punishment is unreasonable and a form of corporal punishment.

Lastly, Complainant’s punishment ended because he walked off the field, unable to go on, even after being warned that leaving would mean he was quitting the football team. Contradicting Gamblin’s claims that he told Complainant the second set of hill sprints he began before walking off the field were Complainant’s last required physical activity, Brakke, [REDACTED] and Complainant all reported Gamblin did not tell the Complainant when his punishment would end. It is reasonable for Complainant to believe he would have been required to do more exercise had he not left when he did.

██████████, varsity football player, reported he heard a conversation between Coach Johnston and Respondent regarding Complainant and that both coaches stated Complainant had to finish. Respondent acknowledges he approved that Complainant be required to run as additional punishment and Complainant was completing his punishment right next to the field where Respondent was working with players.

Complainant reported that during the punishment, Respondent was yelling at him saying, "Go back to Dowling" and "Your thumbs weren't tired when you sent that tweet." Respondent, Johnston, and Gamblin deny making the comments. Most witnesses reported Respondent, Johnston and Gamblin did not yell these comments to the Complainant. However, ██████████, varsity football player, reported Respondent told Complainant, "Go back to Dowling." ██████████ reported Johnston yelled the comment to Complainant, "You might as well go to Dowling," and that when Complainant appeared tired Johnston yelled, "Well, your thumbs didn't get tired." Additionally, ██████████ reported Gamblin yelled at Complainant, "You might as well go to Dowling."

During his punishment, Complainant reported he asked ██████████ for a water break and ██████████ told him he could not have water. ██████████ reported Complainant did not ask him for water and that Complainant was given a water break with the varsity team. ██████████ and ██████████ reported Complainant did not receive water breaks. Amanda Brakke, Athletic Trainer at Lincoln High, and Tom Alessio, football coach, reported Complainant was not given a water break. ██████████, who ran beside Complainant during a portion of the punishment, reported Complainant received no water breaks. Furthermore, Alessio reported Complainant should have received water breaks every ten to fifteen minutes during his punishment. Weather reports for September 3, 2012 at 12:00pm indicate the temperature was 79 degrees. Johnston admitted Complainant received no water break. Gamblin reported he gave Complainant a water break with the team, providing this Investigator and exact quote of what he told Complainant and ██████████ when sending them for water. Then later in the interview, Gamblin reported when the varsity team took a water break, he believed Complainant had already walked off the field and was witnessed by Gamblin speaking with a family friend in the parking lot. When asked if he knew if Complainant received a water break, Gamblin admitted he did not know. Respondent reported he was unsure if Complainant received a water break during his punishment.

Mary Walker and Complainant alleged Complainant feared retaliation from the varsity team. Video footage shows that after walking off the field, Complainant arrived at the door to the building that contains the locker room to find it locked. Complainant can be seen sitting and waiting for approximately one minute before leaving. Complainant, family friend Adam Brown, and Johnston agree that

Complainant left the parking lot dressed in full gear. Complainant reported he would have needed to wait until the varsity team completed practice for the locker room door to be unlocked and then, he would have been required to change with the varsity team and he feared for his safety. Complainant reported he felt physically threatened when players said they wanted him to practice with them and that they wanted to put him in tackling drills so they could hit him following the discussion regarding the tweet.

Both Complainant and Respondent acknowledge Complainant expressed fear of retaliation to the Respondent when they met following practice on September 3, 2012. Subsequently, Complainant did not return to school at Lincoln High School on September 4, 2012 and was disenrolled from Lincoln High School that same day.

The preponderance of the evidence indicates that following a discovery that Complainant posted a disparaging tweet about the varsity football team at Lincoln High School, Respondent required that Complainant submit to bullying and harassment from Respondent, other coaches and varsity team members to continue participating in the football program at Lincoln High School. The allegation of a violation of the District's Bullying/Harassment policy is **founded** for Respondent. Additionally, the physical punishment imposed on Complainant by Gamblin, enforced by Johnston and approved by the Respondent was unreasonable and constitutes corporal punishment. The allegation of corporal punishment for Respondent, Gamblin and Johnston is **founded**.

#### **ADDITIONAL ALLEGATIONS OF CONDUCT UNBECOMING A DISTRICT STAFF MEMBER FILED AGAINST RESPONDENT**

On September 14, 2012, Gary Dickey, Walker-Campero family attorney, emailed the investigators additional allegations against Respondent, including:

- Jeri Trip, parent of a former Lincoln High School athlete alleged Respondent instructed football players to physically lift and move her son's car from the lot onto the grass because the car was parked too close to Respondent's car. In the process, the Trip car sustained damage to the underside. The Trips complained to the school. Initially, Respondent refused to pay for the damages. After Mrs. Tripp continued to escalate the matter, Respondent eventually paid for the repairs. She inquired of the school about his discipline, but she was told that it was confidential.
- Respondent stated publicly in the media that he had no knowledge of the allegation that [REDACTED] assaulted a girl until he was charged criminally. Respondent allegedly was aware of the incident before the beginning of the 2011 football season because he discussed it with his assistant

coaches and football players were called by the police to give statements about the matter. One assistant recommended that they suspend him for three games. Respondent allegedly told him that he had been told by others that criminal charges wouldn't happen until after the season was over.

- [REDACTED] violated the District's rules on alcohol use and was given a three-game suspension. In the second game, Respondent is alleged to have allowed him to play. When confronted during the game about it by the athletic director, Respondent is alleged to have told the A.D. not to worry about it because he would take care of it.
- Allegations that the coaching staff knew of players beating each other with leather belts as part of an initiation process. It is further alleged that this was reported to the School District and one of the coaches was placed on probation.
- Respondent allegedly has referred to his own players as children whose mothers should have had an abortion. He allegedly took out a \$20 bill during a game and told a player to go by Vagisil because he was a "pussy." He allegedly has a "Chris Street" snowplow drill in which he instructs his players to get low like Chris Street did when he was fatally wounded in an automobile accident.
- Respondent allegedly has players perform a full speed contact drill from 10 yard apart in which they hit each other helmet to helmet. It is alleged to have resulted in a player having a seizure. Respondent is also alleged to have denied players water breaks in dangerously warm weather until they performed drills to his satisfaction.

In addition to the allegations above, Joe Bianchi, interim Head Coach and former assistant coach on Respondent's staff made the following allegations:

1. Beau Flowers removed the projector and DVD player that the coaches and team use to review game film to prepare for each week's game. Bianchi also alleged that someone unnamed took the radios that the coaches use to communicate with the press box during games on September 7, 2012 before the game. Bianchi alleged these were "not the actions of someone who cares about the team and wants them to do well in his absence until he returns. A vengeful attempt to undermine the team and the coaches."

2. Respondent is still in contact with players, their families and Coach Beau Flowers, even though he was directed by the District to cease contact with District students and staff until the investigation was completed.

Bianchi referenced a hazing incident that involved players being whipped with belts and complaints by neighbors near the school of foul language being directed at players.

Larry Beall, former teacher at Lincoln High School, alleged that while working as a member of the down and distance crew at home football games at Lincoln High School, he frequently heard Respondent and assistant coaches on his staff directing profane, abusive language at student athletes during games. Beall alleged that during one particular game, he heard Tony Mihalovich, Respondent's brother and a former assistant coach, say to a student athlete as he exited the field after making a bad play during a game, "You motherfucker cocksucker. You better get your ass in gear, or I am kicking you off this team." Beall stated he and another member of the crew reported this to Phil Chia, Athletic Director.

Beall alleged that at the next home game following the report, Respondent confronted Beall in front of the student athletes and said, "You know, if you have a problem with this program, talk to me directly instead of going behind my back." Following this exchange, Beall alleged he was shadowed, shoulder-to-shoulder, by a man throughout the game who whispered threats such as "You mess with this coaching staff and you're in trouble" and "[Respondent] is the best thing that happened to this south side." Beall alleged he asked that the man back out of his personal space several times, but the man would not leave him alone. Beall alleged he was disturbed by this interaction to the extent that he elected to walk off the field and quit the crew at half-time. Beall alleged he and other members of the crew reported that Beall was being shadowed and threatened by a stranger to Phil Chia, who approached the man and asked him to back away. Beall reported he finished out the game, but that it was his last; following these incidents, he quit the team.

#### **SUMMARY OF INVESTIGATIVE FACTS REGARDING ALLEGATIONS OF CONDUCT UNBECOMING A DISTRICT STAFF MEMBER**

THE ALLEGATION THAT RESPONDENT HAD FOOTBALL PLAYERS PICK UP AND MOVE A CAR FROM THE PARKING LOT TO A MEDIAN, CAUSING DAMAGE TO THE CAR

Jeri Tripp contacted the investigators directly to corroborate the incident regarding her son's car being picked up by football players and deposited on a median, damaging the vehicle's underside. However, she reported that her husband provided Respondent with a \$1200 estimate to fix her son's car and he refused to pay the full amount for the car's repairs. Tripp alleged that ultimately, Respondent gave her



husband \$200-\$300 cash and refused to pay the difference. Respondent, Phil Chia and Paul Williamson all reported this incident occurred during the 2011-2012 academic year. Respondent acknowledged he instructed football players to lift the Tripp car from the parking lot at Lincoln High School and place it onto a nearby median because the car was parked too close to his. Chia and Williamson reported they directed Respondent to contact the Tripp family and arrange to pay for any damages sustained by the vehicle as a result of this incident. Respondent acknowledged this occurred. Respondent also acknowledged he was provided a \$1200 estimate from the Tripps, but questioned why the repairs would be so costly. Respondent reported that Mr. Tripp informed him that he knew someone who could complete the repairs for as low as \$300 and willingly accepted this amount of money from Respondent to cover the damages. The Tripps disagreed. The Tripps reported Respondent just continued to refuse to pay them to fully cover the cost of damages to the vehicle and eventually, they dropped the matter.

Respondent's decision to instruct Lincoln High School football players to pick up another student's car in the parking lot and move it is not only unsafe, but it serves to role model inappropriate behavior and demonstrates poor judgment.

#### ALLEGATIONS REGARDING [REDACTED]

Concerning the allegations regarding [REDACTED], Respondent denied he had any advanced knowledge of [REDACTED]'s criminal conduct and kicked [REDACTED] off the team as soon as he found out. Respondent reported that Chia told him that [REDACTED] only needed to be suspended for three games and by kicking [REDACTED] off the team, Respondent elected for a harsher punishment for [REDACTED] than what Chia advised. Chia reported [REDACTED]'s arrest occurred in July and Respondent reported to Chia he had no knowledge of the arrest until October. Coach Alessio denied Respondent had any advanced knowledge of the [REDACTED] criminal investigation, arrest or charges.

However, Coach Bianchi reported Respondent engaged in a "huge coverup" because he had knowledge of [REDACTED]'s criminal conduct two weeks prior to it being reported in the media and refused to act on this knowledge, hoping the media would not become aware of [REDACTED]'s conduct so Respondent could continue to play [REDACTED] on the varsity football team. Bianchi alleged Respondent chose not to tell anyone in the athletic director's office, sanction or remove [REDACTED] from the varsity football team until the charges broke in the news. Coach Sinclair also reported Respondent knew about [REDACTED]'s criminal conduct within a day or two of the incident for which [REDACTED] was arrested.

#### ALLEGATIONS REGARDING [REDACTED]

Concerning the allegations regarding [REDACTED], Respondent denied he has ever played a student athlete who was suspended. He reported that there exists video footage of [REDACTED] on the sidelines

that proves [REDACTED] did not play in the second game during the 2011 football season. Respondent reported Chia could corroborate these statements. Additionally, Respondent reported that if [REDACTED] was added to the junior varsity roster in order to serve out his suspension faster, Respondent had no knowledge of this prior to the investigation.

Chia reported [REDACTED] self-reported during football season an arrest that occurred in the summer for open container. Chia reported this kind of infraction would normally result in a three-game suspension, however, because it was treated as a self-report per instructions from Mike Zelenovich, High School Activities Director, the penalty was reduced to a one-game suspension. Chia reported that to his knowledge, [REDACTED] served his one-game suspension.

However, Bianchi reported Respondent also had knowledge of [REDACTED]'s two run-ins with the law over the past year up to two weeks before the arrests were reported in the media, but he failed to tell anyone in the athletic director's office, sanction or discipline [REDACTED] until [REDACTED]'s arrest was reported in the media. Bianchi alleged Respondent repeatedly allowed known criminals to continue to play on his team without consequences. Coach Alessio reported that [REDACTED] received a three-game suspension for an open container arrest and sat out two varsity games. Alessio alleged Respondent then added [REDACTED]'s name to the roster for a junior varsity game, though [REDACTED] had never played on the junior varsity team, so that [REDACTED] could serve out his suspension faster and play the next varsity game. This allegation is corroborated by Coach Sinclair and Coach Goble.

#### AN ALLEGATION THAT RESPONDENT DIRECTS PROFANE, ABUSIVE AND DEMEANING LANGUAGE AT STUDENT ATHLETES

Concerning the allegation that Respondent directs profane, abusive language and vulgar, demeaning comments toward student athletes, Respondent reported that he and other coaches "occasionally" use profanity at practice and during games. Respondent reported, "However, in 35 years of coaching, I have never cussed out a player. I have never used profanity toward an individual player." Coaches Flowers, Lakis, Gamblin and Johnston all corroborated this statement and reported they've never heard Respondent direct profanity at student athletes. However, several other witnesses refuted these statements.

Larry Beall, Clinton Degen, Kevin Lauridsen and Tim Leonard, former and current members of the down and distance marker team for Lincoln High School football games from 2008 to the present reported hearing Respondent and other coaches direct profanity and demeaning comments toward student athletes during games regularly. Beall and Leonard reported a former assistant coach referred to a student athlete as a "motherfucking cocksucker" during a game for making a bad play while Respondent was present. Both Degen and Leonard reported that during the alleged incident, Respondent was also directing

profanity at the student in question. Degen also reported hearing Respondent refer to student athletes as “motherfuckers” during games. Leonard reported that the profanity and abusive, demeaning language Respondent and his coaching staff directed at student athletes during games caused him to believe there was a “bad culture” on the coaching staff and that Respondent did not act as a positive role model for student athletes. Degen reported Respondent’s and his coaching staff’s extensive and ongoing use of profanity directed at student athletes during games “had no place in high school athletics.”

Coach Bianchi reported Respondent swears at student athletes during a bad practice two to three times per hour. Coaches Alessio, Sinclair, and Goble reported Respondent swore at student athletes daily during practice. This was also reported by Amanda Brakke, Athletic Trainer. Coaching staff reported hearing Respondent direct the following phrases at student athletes:

- “Do your fucking job!”;
- “Quit being a fucking baby!” ;
- “What the hell, man?”; and
- “Pussy fucking baby!”
- “Here’s a dollar. Buy yourself a brain.”

Coach Sean Johnson reported he attended only one varsity practice this academic year and during this practice, Johnson reported he heard Respondent directing “f-bombs” at players, calling them “pussies” and using the phrase “bullshit.”

Allison Cain, Lincoln High School staff member and a neighborhood resident whose home is close the practice field, reported she heard coaching staff swearing at and demeaning student athletes at least once a week. She reported she heard the following phrases directed at student athletes during practices:

- “Fuck!”;
- “What are you, a dumb ass?”;
- “Get your asses moving!”
- “Are you and idiot?”;
- “Son of a bitch.”

Student athletes estimated Respondent used profanity as few times as once a week up to seven to ten times per practice, as estimated by a varsity team football captain. One student athlete reported the coaching staff permits students to direct profanity at each other during practices and that student use

profanity at practice because they hear the coaches swearing. Student athletes reported Respondent has directed the following phrases at student athletes:

- “Run the fucking play right!”
- “Do your fucking job!”
- “You gotta get your ass moving!”
- “Get the fucking ball!”
- “You gotta fucking (insert verb)...”
- “That was fucking stupid!”

Respondent reported, “I have never referred to any of my players, or anybody ever for that matter, as ‘children whose mothers should have had an abortion.’ I find it reprehensible, and as a Catholic, it actually offends me that I would even have to respond to that sort of false accusation.” However, Coaches Alessio and Sinclair both confirmed hearing Respondent direct that specific phrase at student athletes.

Respondent reported, “I have never told a player to get vagisil and called him a ‘pussy.’ I would never say those things to my players. I can be demanding of my players, but I would never demean them like that.” However, Coaches Alessio, Sinclair and Sean Johnson reported hearing Respondent refer to student athletes as “pussies.” Alessio and Sinclair also reported hearing Respondent tell student athletes to go get vagisil because they were “pussies.” Again, Johnson reported he only attended one varsity football team practice during the 2012 season and heard Respondent call student athletes “pussies” during that one practice.

Respondent reported, “I have never been told that occasional profanity is prohibited. Honestly, I have heard worse swearing on my players’ car stereos. However, if I were told to completely refrain from swearing, I would certainly do so.” A review of the Respondent’s personnel record demonstrates that Respondent received a written disciplinary action, dated September 11, 2007, for an incident in which four varsity football players hit younger football players with belts as an initiation ritual in the locker room, while under Respondent’s care and supervision. Contained in this document is the following directive from Elizabeth Celania-Fagen, former Associate Superintendent, “It is the expectation of the Des Moines School District that all students under our care are safe from physical and/or emotional harm. More specifically, no student under our care should be physically harmed (whether they are willing or unwilling), ridiculed, sworn at, or publicly degraded in any way.”

Respondent acknowledged using a “snowplow” analogy during practice, but denied ever making reference to Chris Street. Respondent wrote regarding this allegation, “That would be in poor taste.” Nearly every coach and student athlete interviewed reported there was no such “Chris Street” drill, nor did Respondent reference Chris Street during practices. However, Coach Alessio reported hearing Respondent say to student athletes, “You got ran over, like Chris Street.”

#### ALLEGATIONS OF UNSAFE DRILLS AND DENYING PLAYERS WATER

No member of the coaching staff nor student athlete confirmed they were subjected to unsafe drills, such as the one reported by the Walker- [REDACTED] attorney. Additionally, no coach nor student reported Respondent has ever denied student athletes water during practices.

#### AN ALLEGATION THAT RESPONDENT INSTRUCTED A COACH TO REMOVE EQUIPMENT UTILIZED BY TEAM FROM THE LOCKER ROOM FOLLOWING BEING PLACED ON LEAVE

Respondent was placed on paid administrative leave on September 4, 2012 and was told that he was not to have contact with District staff and students while on leave. Coach Beau Flowers admitted that on September 7, 2012, he returned radios utilized by the football team that are allegedly owned by Respondent to one of Respondent’s employees because Respondent wanted the radios back. Flowers reported he received a message from Respondent through one of Respondent’s employees regarding the radios. Flowers also admitted that on September 10, 2012, at Respondent’s direction, he removed a DVD player, a cowboy remote, and a projector from the locker room and returned them to Respondent. Flowers and Respondent claim these pieces of equipment are Respondent’s personal possessions and were on loan to the Lincoln High School football program. Flowers admitted that following his decision to remove the equipment from the locker room, he then reported the items were missing to Interim Head Coach Bianchi as if he didn’t know what happened to them. It wasn’t until the investigators confronted Flowers with video evidence that he removed the equipment that he admitted to it.

Flowers initially reported Respondent’s wife, Lori Mihalovich, called him and asked him to obtain the equipment and return it. However, later in his statement, Flowers admitted he had spoken to Respondent himself on the phone—allegedly for business reasons—and Respondent requested Flowers get the equipment and return it to him.

Respondent’s decision to communicate with Flowers and direct him to remove equipment from the locker room after being told not to communicate with District staff, as opposed to just contacting Human Resources himself and requesting that his possessions be returned to him was an act of insubordination.

#### ALLEGATIONS THAT BEALL WAS FOLLOWED AND THREATENED AS A FORM OF RETALIATION FOR REPORTING INAPPROPRIATE LANGUAGE DIRECTED AT PLAYERS

Respondent denied the allegation. The other three members of the down and distance marker crew—Degen, Lauridsen, and Leonard—all reported that following a profane, abusive tirade directed at a student athlete by Respondent and his brother Tony for making a mistake during a home football game that Beall and Lauridsen reported the incident to Phil Chia, Athletic Director. Chia also recalled this report was made. Degen, Lauridsen and Leonard reported Beall was subsequently followed and threatened by a man they were unfamiliar with at the next home game. All confirm that Beall was intimidated to the extent that he planned to quit the team at half-time during the game, but remained to the end of the game because Phil Chia intervened and asked the man in question to leave Beall alone. One crew member reported that even after Chia intervened, the man still continued to follow Beall, but from a farther distance. All members of the team agreed Beall never worked on the team again following this incident.

Respondent denied that this event occurred. However, Coaches Bianchi and Alessio reported that following a report from Beall that Respondent and his brother were swearing at a student, Steve Fucularo, the father of a football player who helped out with the football program by providing strength training to some of the football players, followed and threatened Beall at the next home game. Both Bianchi and Alessio reported they were informed of this by Respondent.

#### ADDITIONAL CHARGES OF INSUBORDINATION

Respondent was interviewed by this Investigator on Thursday, September 20, 2012. Without permission and disregarding the investigators objections, Respondent's attorney took the investigator's notes of Respondent's interview with him refusing to review or sign the documents, as required of all interviewees in District investigations. The investigators explained to Respondent that he could not take the document from the building because the investigators did not want the integrity of the investigation compromised as all witness interviews had yet to be conducted. Respondent's attorney refused to return the documents to the investigators, and both Respondent and his attorney assured the investigators that they would not disclose any aspect of the interviews to the public. The investigator warned Respondent that if he were to disclose any aspect of the interview or the allegations discussed in the interview, it would be problematic for him. Again, both Respondent and his attorney denied Respondent would disclose the confidential material.

On Sunday, September 23, 2012, the Des Moines Register printed an exclusive interview with the Respondent in which Respondent disclosed the allegations and other information discussed in the interview. The article, written by Bryce Miller, reads, "Suspended coach Tom Mihalovich says

investigators have asked questions about his handling of football-related money tied to Des Moines Lincoln, while they've been looking into a case involving the discipline of a former player. Mihalovich, speaking for the first time about the details of the Des Moines Public Schools' investigation, told me *on Friday* that he feels the inquiry will lead to him losing his job."

Respondent's decision to disclose confidential information to the public after being directed not to was an act of insubordination.

The allegations of conduct unbecoming a District staff member are **founded**. Additionally, Respondent is charged with **two counts of insubordination** for communicating with a District staff member while on paid administrative leave and disclosing confidential information regarding a District investigation, in violation of directives given to the Respondent.

**The preponderance of the evidence indicates that following a discovery that Complainant posted a disparaging tweet about the varsity football team at Lincoln High School, Respondent required that Complainant submit to bullying and harassment from Respondent, other coaches and varsity team members in order to continue participating in the football program at Lincoln High School. The allegation of a violation of the District's Bullying/Harassment policy is founded for Respondent. Additionally, the physical punishment imposed on Complainant by Gamblin, enforced by Johnston and approved by the Respondent was unreasonable and constitutes corporal punishment. The allegation of corporal punishment for Respondent is founded.**

**Additional allegations of conduct unbecoming a District staff member on the part of the Respondent, including Respondent directing profane, abusive language at student athletes, engaging in unethical behavior regarding student discipline, and engaging in intimidation and retaliation are founded. Allegations of insubordination on the part of the Respondent for communicating with staff in violation of directives regarding behaviors while on paid administrative leave and disclosing confidential information from the investigation to the public are founded.**

**The investigation is now closed and referred to administrators in the Human Resources Management Department for handling as a personnel matter.**

#### **ANTI-RETALIATION STATEMENT**

The District may take disciplinary action against any employee who is found to have retaliated against another employee or student who has filed a formal complaint or provided testimony during a complaint.